

EXHIBIT 4

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION
Civil Action No. 04-40092-FDS

LOUIS P. ALBERGHINI,
Plaintiff,
VS.
SIMONDS INDUSTRIES, INC.,
Defendant.

DEPOSITION OF PATRICIA A. JEARMAN, taken at the request of the Defendant pursuant to the applicable provisions of the Federal Rules of Civil Procedure before Julie A. Bates, a Notary Public in and for the Commonwealth of Massachusetts, on Thursday, March 10, 2005, at the offices of Bowditch & Dewey, 311 Main Street, Worcester, Massachusetts. Also present: Ilda Thibodeau and Attorney David Witman.

A P P E A R A N C E S:

FOR THE PLAINTIFF:
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PROCEEDINGS

PATRICIA A. JEARMAN, a witness

called to testify by counsel for the Defendant,
having been first duly sworn, was examined and
testified as follows:

EXAMINATION BY MR. SIGEL:

Q. Ms. Jearman, my name is Jonathan

Sigel, and I represent Simonds Industries,
Incorporated, regarding this litigation. And
if you could, just for the record, please,
state your full name.

A. Uh-huh (affirmative response).

Patricia A. Jearman.

Q. And if you could spell your name for
the record?

A. Uh-huh (affirmative response). All
of it? In entirety?

Q. How about Jearman?

A. J-E-A-R-M-A-N.

Q. And what is your address currently?

A. It's 112 Saunders Street, and that's
S-A-U-N-D-E-R-S, Street, in Gardner,
Massachusetts.

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Q. And your social security number?

A. Is 222-46-4096.

Q. Date of birth?

A. Is 3/16 of 1966.

Q. And are you married?

A. Yes, I am.

Q. How long have you been married?

A. I've been married since May 14th of
2002. So almost three years.

Q. Okay. And is that your first

marriage?

A. No. It's my second marriage.

Q. When were you married before that?

A. October 14th of 1988.

Q. And how long did that marriage last?

A. It dissolved, I believe it was,
December 15th of 1999.

Q. And what was your name -- what was
the name of your husband?

A. Andrew J. Dupuis, D-U-P-U-I-S.

Q. So is Jearman your original name, or
your new married name?

A. No, it's my original maiden name.

Q. And what is your current husband's

11:24:02 1 the highlights of my job there.
 11:24:04 2 Q. Okay. And as far as doing those
 11:24:15 3 functions, as far as your Simonds work goes,
 4 what would you say directly contributed to your
 5 ability to perform your job at Spectro?
 11:24:25 6 A. I worked with the company's salary
 11:24:30 7 budgets at Simonds. I helped administer the
 11:24:35 8 401K defined contribution plan. That was a
 11:24:39 9 big, key thing. I did analysis on some of the
 11:24:42 10 worker's comp there and was familiar with the
 11:24:46 11 required reporting. Helping develop
 11:24:54 12 handbooks -- oh, also another function, of
 11:24:55 13 course, is policies and procedures within
 11:24:58 14 Spectro.
 11:24:58 15 Q. Okay.
 11:24:59 16 A. I also helped the company at Simonds
 11:25:03 17 help produce their employee handbooks. I
 11:25:06 18 helped to do that. You know, mostly just the
 11:25:09 19 clerical typing side of that. That was all
 11:25:11 20 done by Ilda Thibodeau and, I think, counsel
 11:25:16 21 and maybe consultants. I can't recall. It's
 11:25:17 22 been a long time. Helping to do that was big.
 11:25:20 23 Coordinating with locations and
 11:25:23 24 communicating, doing -- helping with locational

11:25:27 1 communications I assisted in. That's some
 11:25:38 2 summary. But a big part of the day was with
 11:25:41 3 the 401K administration. That was relatively
 11:25:45 4 time-consuming, is the paperwork of all the
 11:25:49 5 locations because we were the corporate
 11:25:51 6 location in Fitchburg.
 11:25:52 7 Q. All right. And you worked with Ilda
 11:25:54 8 on the 401K?
 11:25:55 9 A. Uh-huh (affirmative response), yeah.
 11:25:57 10 Q. At Spectro, since you began your
 11:26:00 11 employment, have there been any layoffs?
 11:26:02 12 A. Yes, there had been.
 11:26:05 13 Q. Since you started there up until
 11:26:08 14 now?
 11:26:09 15 A. Yes.
 11:26:09 16 Q. And as HR manager, were you involved
 11:26:12 17 in any of those?
 11:26:13 18 A. Yes.
 11:26:14 19 Q. And as far as -- and were they large
 11:26:20 20 layoffs?
 11:26:23 21 A. I don't know what you would define
 11:26:23 22 as "large".
 11:26:24 23 Q. More than ten at a time?
 11:26:26 24 A. Yes.

11:26:27 1 Q. Okay. More than 20, do you
 11:26:31 2 remember?
 11:26:36 3 A. I do not recall, but I do not think
 11:26:39 4 at any one given time that there were ever more
 11:26:41 5 than 20. I can't recall. I'd have to go back
 11:26:45 6 and look.
 11:26:46 7 Q. And were you involved in assisting
 11:26:50 8 in any way with those layoffs?
 11:26:52 9 A. Yes. Making some recommendations or
 11:26:55 10 putting together information that needed to be
 11:26:56 11 done; making sure that there wasn't any type of
 11:26:58 12 adverse impact done; to make sure that, you
 11:27:02 13 know, when we're looking at the force that
 11:27:04 14 we're going to lay off, if it's, you know,
 11:27:06 15 based upon seniority. A lot of times it was
 11:27:09 16 mostly based upon seniority.
 11:27:11 17 Q. Is Spectro union or non-union?
 11:27:14 18 A. We're a non-union facility.
 11:27:16 19 Q. Okay. And when you said making sure
 11:27:21 20 it didn't have an adverse impact, what do you
 11:27:23 21 mean by that?
 11:27:23 22 A. That any particular groups -- we
 11:27:26 23 have a very diverse work force at Spectro.
 11:27:29 24 Q. Okay.

11:27:29 1 A. And, you know, you just want to make
 11:27:33 2 certain that a group -- if you're just doing it
 11:27:36 3 based upon seniority, there's not much you
 11:27:39 4 can -- there's not much you can do. Depending
 11:27:41 5 upon the number of people who we've had at a
 11:27:43 6 particular time come in -- and I mean if the
 11:27:46 7 work slows, a lot of times it was just based
 11:27:49 8 upon seniority. But you just -- you want to
 11:27:51 9 take a look to make sure that you're not going
 11:27:53 10 to discriminate against any particular group.
 11:27:56 11 Q. When you say any particular group,
 11:27:57 12 you mean any protected group.
 11:27:59 13 A. Any protected group, yes.
 11:28:00 14 Q. And by that you mean --
 11:28:02 15 A. Cultural diversity, you know, race,
 11:28:07 16 national origin.
 11:28:08 17 Q. How about age?
 11:28:10 18 A. Yeah, absolutely.
 11:28:12 19 Q. And so what would you do to make
 11:28:14 20 sure that you didn't discriminate or in your --
 11:28:17 21 as you were just saying have an adverse impact
 11:28:19 22 on older employees?
 11:28:20 23 A. You would perform an analysis. And
 11:28:24 24 you would chart all that information -- their

1 age, their race, their sex -- if it became an
2 issue. If it's just based upon seniority,
3 first in and first out, it depends upon the
4 positions within the company. A lot of times
5 the reductions in force would only come from
6 the manufacturing side, which they were
7 non-exempt employees. And a lot of times
8 they -- like I said, it was someone -- based
9 upon their date of hire. If we needed to let
10 people go, we would always do the least senior
11 person and work our way.

12 Q. Okay. How about the exempt work
13 force, the salaried work force? Ever do any
14 layoffs with those folks?

15 A. Yes.

16 Q. And as far as reasons for layoff,
17 anything -- were there ever reasons other than
18 seniority?

19 A. Yes. Actually perform functions,
20 whether they were -- those particular functions
21 were no longer needed within the company,
22 whether we were going to combine jobs based
23 upon other skill sets with people maybe with
24 more seniority.

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1 Q. I understand. So when you were
2 eliminating positions or laying people off in
3 those circumstances, you did that analysis as
4 well to make sure the company wasn't
5 potentially at risk of discriminating?

6 A. I believe so. I believe so. I
7 really -- it's been a long time since we've had
8 a layoff at Spectro.

9 Q. When was the last time?

10 A. I would want to say in 2002.

11 Q. Okay.

12 A. I -- to the best of my knowledge.

13 Q. And --

14 A. And that was the only time I believe
15 that we ever laid off salaried employees. We
16 also did hourly employees and then salaried.
17 The cuts were very deep. I believe at that
18 time we were only down to 50 employees at the
19 time. And even at the time I was almost
20 recommending that they should let me go.

Q. Why?

22 A. Just based upon certain functions,
23 we were wondering if other people could perform
24 different job duties at the time and whether it

11:30:41 1 was really relevant.

11:30:43 2 Q. Okay. And getting back to the --
11:30:49 3 you said employee data that you compiled with
11:30:53 4 respect to those folks, those salaried folks,
11:30:57 5 that included information you said about
11:31:01 6 whether they happen to be minority or not?

11:31:05 7 A. I believe so. I mean, in those
11:31:07 8 types of jobs, our work force was so lean that
11:31:12 9 it really -- there's only one person that could
11:31:15 10 perform a particular job function just like
11:31:17 11 with me. I was the only person in human
11:31:19 12 resources. We'd only have one engineering
11:31:23 13 manager; we'd only have one particular person.
11:31:25 14 So a lot of times, either they were reduced,
11:31:29 15 they were totally eliminated -- sometimes
11:31:31 16 people couldn't even slide in -- or senior
11:31:33 17 management would take over those functions.

11:31:35 18 For example, if a materials manager
11:31:36 19 was let go, the senior vice president might
11:31:38 20 take over all those total responsibilities. So
11:31:41 21 it really wasn't a matter of someone else
11:31:45 22 taking -- they would just take over the
11:31:48 23 responsibilities of the position and no one
11:31:50 24 would be replaced right now. They would always

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11:31:52 1 get -- they just got absorbed.

11:31:54 2 Q. They would consolidate.

11:31:56 3 A. Yeah.

11:31:56 4 Q. And that was for economic reasons?

11:31:58 5 A. Yes.

11:32:07 6 Q. And so the information you said that
11:32:09 7 you -- part of what you compiled were people's
11:32:13 8 ages as well, right?

11:32:14 9 A. Yes.

11:32:15 10 Q. And did you see any problem in doing
11:32:19 11 that?

11:32:19 12 A. No, absolutely not. We want to make
11:32:22 13 sure that a particular group, protected group,
11:32:26 14 wasn't being targeted. We felt like we had a
11:32:29 15 responsibility to do that, to look, to make
11:32:36 16 sure.

11:32:37 17 Q. At Simonds who hired you?

11:32:41 18 A. At Simonds, I believe that Ilda did.
11:32:45 19 I believe that Ilda Thibodeau did, I believe.

11:32:48 20 Q. And you said you were there as a
11:32:51 21 temporary employee before you were a regular
11:32:53 22 employee?

11:32:53 23 A. That's correct.

11:32:54 24 Q. And when were you a temporary

1 sense and is prudent to do that kind of
2 analysis, right?

3 A. **Right. That's correct.**

4 Q. Did Ms. Thibodeau ever say to you
5 that she felt she was being forced to do
6 certain things?

7 A. **No. No.**

8 Q. Were you familiar with the company's
9 written policies on equal employment
10 opportunity in your position?

11 A. **Yes. I'm certain I read them at
12 times when I had signed a -- you know, gotten
13 my handbooks.**

14 Q. Were you aware of any policy
15 regarding non-retaliation for reporting
16 discrimination or harassment?

17 A. **At that time, I cannot say that was
18 something that I was completely knowledgeable
19 of. You know, at that time, you know, I didn't
20 have -- it wasn't really a part of my job nor
21 was it something that I really focussed and
22 knew a lot about that. We never really had any
23 type of formal training at Simonds.**

24 Q. During the time that you worked

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1 there, were you aware that there were laws that
2 prohibited discrimination on certain bases?

3 A. **Yes.**

4 Q. And were you also aware that there
5 were laws prohibiting a company retaliating
6 against someone for reporting discrimination?

7 A. **At that time, no, I was not aware of
8 protection against retaliation.**

9 Q. Were you aware of the company's
10 policy on reporting -- a policy and procedure
11 for an employee reporting complaints?

12 MS. ELLIOTT: Objection.

13 A. **Yes, I was. I knew who I should be
14 going to. Or at least there was -- who we were
15 supposed to go to was our supervisor or to the
16 locational HR manager at the time.**

17 Q. Okay. So who would that have been?

18 A. **Either my supervisor, Ilda
19 Thibodeau, or Jim Carnivale.**

20 Q. Okay. And would you say that you
21 were familiar with that throughout your
22 employment at Simonds?

23 A. **Yes. Yes, I would say so.**

24 Q. Do you have any personal knowledge

1 of any Simonds policy or practice after

2 January 27th, 1996?

3 A. **No, I do not.**

4 Q. Do you have any personal knowledge
5 of any Simonds reorganization after
6 January 27th, 1996?

7 A. **Yes, I do.**

8 Q. What is that?

9 A. **I do know that Joe Sylvia, I
10 believe, is no longer with the company. I do
11 know that -- just in general terms that Simonds
12 has been some sort of restructuring and that a
13 lot of the executives that were in place are no
14 longer there. And I do not know who they are.**

15 Q. Okay.

16 A. **I do know that Ilda's job title's
17 changed. She's the director of human
18 resources. I know that based upon some general
19 conversations that I've had with some former
20 colleagues of mine. We would get together -- I
21 haven't done -- I haven't gone -- we have like
22 a little dinner or get-together every once in
23 awhile, former employees. We talk about our
24 personal lives, but we'll talk in general terms**

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1 **about, you know, what's happening, et cetera,
2 with -- at Simonds. Just very, very general
3 terms.**

4 Q. Okay. So you've heard about these
5 things happening, right?

6 A. **That's correct.**

7 Q. And when I say personal knowledge, I
8 mean have you been involved or observed these
9 things happening?

10 A. **No, I have not.**

11 Q. Same question with respect to any
12 reductions in force since you left the company.

13 A. **I know nothing about them besides,
14 you know, like I said, Lou telling me that he
15 was laid off -- I have to take that back. I
16 have heard that there had been some other staff
17 leaving the company, too, and I don't know the
18 extent of their leaving the company.**

19 **I know like a Ralph Whitcomb who I
20 knew of, an accounting manager there, I don't
21 believe he's with the company any longer. And
22 I know that Steve Harvey is no longer with the
23 company, he's in a -- he's doing his own CPA
24 company. And a couple other people are no**

1 A. In the workplace -- and there are
2 other people who have knowledge of it but
3 probably won't come forward because they are
4 probably afraid. He would stick his fingers in
5 my ear; he would tousle my hair; and one time
6 he asked me to stand up because I was wearing a
7 pair of shorts and they told me that the front
8 row said I looked good in shorts and he wanted
9 to see me standing up.

10 Q. And it's your sworn testimony that
11 that was Attorney Witman who did that?

12 A. That is absolutely correct.

13 Q. And when was that?

14 A. I can't recall the specific time,
15 but I complained about it on several occasions.
16 And it was kind of a joke in our department
17 whenever counsel would walk by, that people
18 would cover their ears.

19 Q. And who did you complain to?

20 A. I complained to Ilda Thibodeau and I
21 complained to Jim Carnivale about it.

22 Q. And were you ever retaliated against
23 for complaining?

24 A. No, I wasn't.

1 Q. And what, if anything -- strike
2 that. And how did they respond when you
3 complained?

4 A. Nothing was done after the first and
5 second and third time I complained.

6 Q. And when was that?

7 A. I cannot recall. It was before I
8 left. It was not directly -- it was one of the
9 main reasons -- it was one of several reasons
10 why I decided to leave the company.

11 Q. How long did you remain at the
12 company after that happened?

13 A. It probably took me about a year and
14 a half to find a job.

15 Q. So you remained at the company for
16 one and a half years after you claim --

17 A. Approximately. If I had to put a
18 time line on it. To the best of my
19 recollection, I believe so. It's very
20 difficult to find a job. It was a tough time,
21 it's hard. And I was looking for the right
22 job, the right pay, the right -- there was
23 nowhere for me even to go at Simonds. I knew
24 that, you know, and it was company that I

1 particularly -- they had been good to me
2 financially, I would say. But I always thought
3 that my merit increases were based upon my
4 performance and my work there.

5 But it wasn't until I made indirect
6 comments about threatening -- when my husband
7 learned of all these -- I didn't want to tell
8 my husband about what was going on at work.
9 When I finally told him about the last thing
10 that happened, to ask to be stood up, to stand
11 up, my husband -- my ex-husband at that time
12 was a police officer, and he was very upset to
13 learn about it. And he told me if he doesn't
14 stop doing it, that he'll go and make sure that
15 he doesn't do it anymore. And he asked me to
16 spread that word. But I was also afraid
17 because he's counsel for the company. He held
18 a very prestigious position within that
19 company.

20 Q. And you're still angry about that
21 today; is that correct?

22 A. I'm upset about the company not
23 taking any -- or not responding to my
24 complaints like they should have.

1 Q. Getting back to my question about
2 your belief that they had a practice of laying
3 off older employees and replacing them with
4 younger employees, you talked about the age
5 information you were asked to compile, right?

6 A. Uh-huh (affirmative response),
7 that's correct.

8 Q. And you've also compiled that age
9 information at Spectro, haven't you? You
10 testified to that earlier?

11 MS. ELLIOTT: Objection. You can
12 answer.

13 A. I believe -- I believe I have. I
14 don't want to misspeak. I believe I have.

15 Q. We can go back and look at your
16 testimony.

17 A. Yeah, no, I -- I know I at least did
18 one during my time at Spectro. I did one
19 adverse impact analysis.

20 Q. Okay.

21 A. I believe.

22 Q. And you compiled age information
23 about employees, right?

24 MS. ELLIOTT: Objection.

12:14:35 1 MR. SIGEL: What's your objection?
 12:14:37 2 A. **It wasn't specific --**
 12:14:38 3 MR. SIGEL: Excuse me, wait a
 4 second.
 5 MS. ELLIOTT: My objection is that
 12:14:41 6 you're putting words in her mouth. That isn't
 12:14:43 7 what she said. She said she compiled a list
 12:14:46 8 based upon many things, not just age. She gave
 12:14:48 9 a list of things.

12:14:49 10 MR. SIGEL: My question was not only
 12:14:51 11 based on age. That wasn't my question. Let's
 12:14:53 12 go back and look at it.

12:14:54 13 MS. ELLIOTT: I think it was.

12:14:55 14 MR. SIGEL: No, it wasn't. And I'll
 12:14:56 15 ask it again.

12:14:57 16 MS. ELLIOTT: Okay.

12:14:57 17 Q. Your testimony was that you compiled
 12:15:02 18 information including age information about
 12:15:04 19 employees at Spectro; is that correct?

12:15:06 20 A. **Not specific to age.**

12:15:10 21 Q. All right. I didn't ask that. My
 12:15:13 22 question was, you compiled employee information
 12:15:16 23 as part of a layoff -- at least one you've done
 12:15:18 24 at Spectro -- that included employee age

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12:15:21 1 information; is that correct?

12:15:23 2 A. **That included, yes, that is correct.**

12:15:24 3 Q. Okay. Was that improper?

12:15:27 4 A. **No, it was not improper. It's**
 12:15:30 5 **necessary.**

12:15:30 6 Q. Okay. You did the same thing at
 12:15:33 7 Simonds at least with respect to your
 12:15:37 8 involvement with respect to employee ages and
 12:15:39 9 relation to layoffs --

12:15:40 10 MS. ELLIOTT: Objection.

12:15:41 11 Q. -- correct? You can answer the
 12:15:43 12 question.

12:15:51 13 A. **I only recall being asked to provide**
 12:15:55 14 **name and age, just those specific statistics.**

12:16:00 15 Q. I understand. But you've testified
 12:16:07 16 that it's a prudent thing to do to compile --

12:16:11 17 A. **It's --**

12:16:12 18 Q. -- let me finish my question
 12:16:14 19 please -- to compile various employee data,
 12:16:17 20 including age, you said minority status, I
 I believe --

12:16:24 22 A. **Yes.**

12:16:24 23 Q. -- to make sure that -- or help make
 12:16:28 24 sure that the company is not having -- or that

12:16:34 1 the layoff is not having any kind of
 12:16:38 2 discriminatory impact? Is that my
 12:16:40 3 understanding?

12:16:40 4 A. **Yes.**

12:16:41 5 Q. So then what was it about your doing
 12:16:45 6 that for Simonds that you would distinguish
 12:16:48 7 from what you've done at Spectro, if anything?

12:16:51 8 A. **I was only asked to provide specific**
 12:16:57 9 **information regarding their name and their age**
 12:16:58 10 **when I have other information that would have**
 12:17:01 11 **been relative. And when you're doing a riff**
 12:17:05 12 **(phonetic spelling), to be prudent you need**
 12:17:08 13 **other additional information which our**
 12:17:09 14 **department would have only been able to**
 12:17:11 15 **provide.**

12:17:12 16 Q. Do you know that that information
 12:17:14 17 wasn't considered?

12:17:16 18 A. **No, I do not. But I do believe -- I**
 12:17:19 19 **do believe that I was only one of several**
 12:17:21 20 **people who had the computer skills and the**
 12:17:25 21 **databases at the time to really compile and**
 12:17:27 22 **access that information and had the ability to**
 12:17:30 23 **do that.**

12:17:30 24 Q. You were one of several people who

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12:17:31 1 could do that.

12:17:34 2 A. **That is correct.**

12:17:37 3 Q. So is it your testimony that your
 12:17:41 4 belief regarding -- that there was something
 12:17:47 5 inappropriate about compiling that age
 12:17:48 6 information at Simonds was inappropriate
 12:17:53 7 because you think that's the only information
 12:17:57 8 that was looked at?

12:17:59 9 A. **Yes.**

12:18:00 10 Q. Wouldn't it be prudent for Simonds
 12:18:03 11 to look at that information the same way you
 12:18:05 12 have at Spectro to make sure -- or at least
 12:18:09 13 have an understanding of how many older
 12:18:14 14 employees would be affected by a layoff?

12:18:17 15 MS. ELLIOTT: Objection.

12:18:18 16 A. **Yes.**

12:18:37 17 Q. When you were preparing that
 12:18:44 18 information at Simonds which included
 12:18:44 19 employees' ages, did Ms. Thibodeau or anyone
 12:18:47 20 else explain to you why that was being done?

12:18:50 21 A. **No. I believe -- if I can make an**
 12:18:55 22 **assumption, I believe that I was told that**
 12:18:56 23 **there was going to be a layoff.**

12:18:59 24 Q. Okay.